

STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

DOCKET	
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In the Matter of:)	
)	
Preparation of the 2005 Integrated Energy)	Docket No. 04-IEP-01K
Policy Report)	Committee Draft Document
)	Hearings

The California Municipal Utilities Association ("CMUA") hereby submits the following comments to the Committee Draft Report ("Report") as part of the 2005 Integrated Energy Policy Report ("IEPR").

Chapter 3: Electricity Needs and Procurement Policies

Page 43 – "The Energy Commission recommends that state policy makers provide a clear signal that all publicly owned utilities take on an explicit resource adequacy requirement."

The Report should be amended to reflect that on September 29, 2005, Assembly Bill ("AB") 380 was chaptered. AB 380 adds Section 9620 to the Public Utilities Code, which clearly signifies the Legislature's intent on the issue of resource adequacy for all POU's. The new Section 9620 includes four key components.

- It sets forth clear principles of resource adequacy that acknowledge the efficacy of local control over local concerns. It requires that "[e]ach local publicly owned electric utility serving end-use customers, shall prudently plan for and procure resources that are adequate to meet *its planning reserve margin and peak demand and operating reserves*, sufficient to provide reliable electric service to *its customers*."¹
- It sets explicit, minimum quantitative requirements for planning reserve levels and reliability criteria based upon standards that are objective, uniform, and accepted throughout the western interconnect.
- It provides a mechanism for independent evaluation of each POU's progress in achieving these goals.
- It provides for oversight by the Legislature through the IEPR.

¹ Chapter 367, adding section 9620 to the California Public Utilities Code (emphasis added).

Chapter 3: Electricity Needs and Procurement Policies

Page 48 – “The Energy Commission believes that the CPUC policy of establishing exit fees is sufficient to eliminate the lion’s share of uncertainty about departing load.”

The Report should be amended to reflect that on October 7, 2005, Assembly Bill (“AB”) 1723 was chaptered. AB 1723 adds Section 25302.5 to the Public Resources Code, which deals with the forecasting of departing load. The new Section 25302.5 requires that as part of the IEPR, each entity that serves or plans to serve electricity to retail customers, including IOUs, POUs, ESPs, and CCAs, shall provide the Energy Commission with its “forecasted load that may be lost or added” by a POU or CCA or served by an ESP. The Energy Commission “shall perform an assessment in the service territory of each [IOU] of the loss or addition of load described in this section and submit the results of the assessment to the Public Utilities Commission.”²

The purpose and effect of AB 1723 is clear. The Energy Commission is required to adopt the most likely forecast of departing load (both coming and going) and provide it to the CPUC. Any IOU claim to uncertainty about departing load will be erased. The IOU should not procure for any load forecasted to depart or being served by another provider. The Energy Commission recommendation for exit fees, even in the most positive light, is an untenable anachronism and should be entirely removed from the Report.

Chapter 4: Demand-Side Resources, DG, and other Electricity Supplies

Page 60 – “The Energy Commission should work with POUs to establish goals consistent with those adopted for IOUs, by the end of 2006.”

The Report should be amended to reflect that on September 29, 2005, Senate Bill (“SB”) 1037 was chaptered. SB 1037 adds Section 9615 to the Public Utilities, which requires each POU, “in procuring energy, shall first acquire all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.”³

POUs have a long history of enthusiastic commitment to energy efficiency that predates the current loading order activity. POUs have developed energy efficiency programs that respond to the requirements of the law and to the requirements of the community as determined by their local elected officials. Decisions regarding energy efficiency investments must be made in the context of the individual utility system. It is entirely appropriate for local elected officials to determine the appropriate level of energy efficiency investment while taking into account their utility’s customer base, voter attitudes, resource mix, and rate structure. In the final analysis local elected officials respond to the values and needs of their customer/owners.

² Chapter 703, adding section 25302.5 to the California Public Resources Code.

³ Chapter 366, adding section 9615 to the California Public Utilities Code.

Likewise, in regard to the Report's comment on page 60, the POU's are collectively involved in developing standardized tools to evaluate the cost-effectiveness of existing Public Benefits programs, as well as designing new cost-effective energy efficiency programs. These tools, while developed by the POU's to achieve goals adopted by the POU's, are expected to provide adequate information for the Energy Commission to understand the program plans and results in accordance with the new Public Utilities Code § 9615(b).

Chapter 6: Renewable Resources for Electricity Generation

Page 95 – “[T]he targets, timelines and eligibility standards established for IOUs should be applied consistently to POU's since those entities are intended to contribute to statewide renewable goals.”

The unified legislative scheme for statewide renewable goals, which included Public Utilities Code §§ 399.11, *et seq.*, for the IOUs (and ESPs, CCAs) and § 387 for the POU's, was established by SB 1078 in 2002. In accordance with § 387, the POU's “shall be responsible for implementing and enforcing a renewables portfolio standard (“RPS”) that recognizes the intent of the Legislature to encourage renewable resources” In this implementation, however, Section 387 places an additional requirement on POU's in that they “shall be responsible . . . for taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.” Hence, each POU *is mandated* to consider *all* of these factors in setting targets and timelines for its RPS.

In the implementation of their RPS programs, these public agencies are directly accountable to their customers through various means including annual reporting, open meetings (Brown Act), open information and full disclosure (Public Records Act), and local elections. And, in response to this local accountability, the vast majority of POU's have adopted similar or identical targets and timelines for procuring “§ 399.12 eligible renewables” as the IOUs. Some POU's have adopted targets and timelines more stringent than the IOUs, and furthermore, a number of these utilities *currently* have portfolios that include “§ 399.12 eligible renewables” far in excess of 20%.⁴

The Report should also reflect statements made by Commissioner Geesman during the July 25th Committee Workshop concerning issues confronted by small to medium size POU's. Mr. Nick Zettel from the City of Redding observed that many POU's have existing long term contracts and/or “steel in the ground” that preceded RPS legislation.⁵ The POU's did not divest of their generation during restructuring and procuring new resources to supplant existing resources is problematical. Mr. Zettel also mentioned that limited transmission capacity adds another level of complexity. Commissioner Geesman acknowledged that “[i]t is much, much more difficult to achieve an appropriate balance in a smaller portfolio which is why this commission last year in our 2004 IEPR update recommended a case by case variance procedure for smaller

⁴ See *e.g.*, Alameda (56%), Lompoc (36%), Lodi (27%), and Santa Clara (24%).

⁵ Tr. at 179, July 25, 2005.

municipal utilities as opposed to the one size fits all approach.”⁶ CMUA is unable to reconcile the Report recommendation listed above with Commissioner Geesman’s statement. The recommendation should be stricken.

In closing remarks truly reflective of § 387 and POU sentiment, Mr. Zettel stated that “[e]very utility is going to try their best within reason with their rates and existing generation and contracts, and we just wanted to make sure that the Commission realized that [the] municipal community was working hard to make sure we all meet the goals in mind.”⁷ When measured as a group, the POUs are contributing to the statewide renewable goals in conformance with the Legislature’s intent, and particularly in regard to environmental improvement. It is factually incorrect for the Report to include statements to the contrary.

Chapter 6: Renewable Resources for Electricity Generation

Page 95 – “[M]any POUs still count generation from [hydroelectric projects larger than 30 MW] toward their renewable energy targets.”

Directly from the Energy Commission dais [synonym – pulpit?], the dispute over counting large hydro has been called a “religious war.” Yet, the Energy Commission has no viable argument based on § 387 to denounce this renewable energy resource. As mentioned above, the POUs “shall be responsible” for considering multiple factors in their RPS implementation.

The decision to consider large hydro by some POUs clearly comports with § 387 in terms of rates, reliability, financial resources, and environmental issues. The energy generated by existing hydro facilities provides an incredibly inexpensive component of the POU resource portfolio. Additionally, many hydroelectric facilities, regardless of any arbitrary size limitation, provide a number of environmental benefits dealing with water resource management such as ensuring domestic and industrial water supplies, irrigation, and flood control. Another environmental benefit of both large and small hydro facilities, of course, is the renewable source of non-fossil fueled energy.

CMUA desires to make these last points absolutely clear. First, not all POUs count large hydro in their RPS programs. Second, many POUs that do count large hydro in their RPS: (1) have nonetheless set goals for sales from “§ 399.12 eligible renewables” at 20% by 2017 or sooner; and (2) will prefer these same resources over conventional generation in future procurements to satisfy unmet load.

⁶ Tr. at 180, July 25, 2005.

⁷ Tr. at 181, July 25, 2005.

Chapter 6: Renewable Resources for Electricity Generation

Page 95 – “Based on data submitted by the IOUs on their progress toward RPS compliance, the shortfall [of statewide renewable % dropping since 2002] appears to be from non-IOU retail sellers such as POU, ESPs, and CCAs.”

CMUA strongly rejects this invalid, speculative, and irresponsibly derived conclusion. The sentence should be removed in its entirety. It was based upon: (1) data submitted for IOU “plans” and not from actual resources procured; and (2) staff’s failure to collect or acknowledge sufficient data from the POU. The Report should not include such an inference based mostly upon the absence of information collected.

In fact, many CMUA members are actively adding eligible renewables to their resource portfolios in 2005 and 2006. For example, during the July 25th IEPR Committee Workshop on the Loading Order, Mr. Manuel Robledo from the Southern California Public Power Authority stated how its members had added 470 MW of commitments and eligible renewable resources, representing 5 percent of its load.⁸ At the same meeting, Mr. Alex Leupp from the Northern California Power Agency described several recent renewable projects: Santa Clara adding 75 MW of wind power to increase its § 399.12 eligible renewable percentage to 30% in early 2006; Redding adding 90 GWh of wind power to increase its § 399.12 eligible renewable portfolio to 14.1% (and expected to quickly reach 28.4% with more additions); Palo Alto incentivizing the addition of 315 kW of solar; and Roseville planning to build a 1 MW solar facility at its new powerplant site.⁹ CMUA seriously doubts that the Report staff has adequately researched the facts or collected sufficient substantive information to support making its statement in a document intended to inform to the California Legislature.

Respectfully submitted,

_____/s/_____

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⁸ Tr. at 36, July 25, 2005.

⁹ Tr. at 158-160, July 25, 2005.